

**BEFORE THE ARIZONA MEDICAL BOARD**

In the Matter of:

Case No. MD-04-1506 and MD-05-0170

**MARC A. BAUDER, M.D.****CONSENT AGREEMENT FOR  
DECREE OF CENSURE**Holder of License No. 15235  
For the Practice Medicine  
In the State of Arizona**CONSENT AGREEMENT****RECITALS**

In the interest of a prompt and judicious settlement of this case before the Arizona Medical Board, ("Board,") that is consistent with the public interest, statutory requirements and responsibilities of the Board and pursuant to A.R.S. § 41-1092.07(F)(5), Marc A. Bauder, M.D. (Respondent), holder of license number 15235 to practice allopathic medicine in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order, ("Consent Agreement,") as the final disposition of this case.

1. Respondent has read and understands this Consent Agreement, and has had the opportunity to discuss it and the issues contained in it with an attorney, or has waived that opportunity. Respondent voluntarily enters into this Consent Agreement for the purpose of avoiding the expense and uncertainty of an administrative hearing.

2. Respondent understands that he has a right to a public administrative hearing concerning each and every allegation set forth in this case, at which he could

1 present evidence and cross-examine witnesses. By entering into this Consent Agreement,  
2 Respondent freely and voluntarily relinquishes all rights to such an administrative  
3 hearing, as well as all rights of rehearing, review, reconsideration, appeal, judicial review  
4 or any other administrative and/or judicial action, concerning the matters set forth herein.  
5 Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.  
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7 3. Respondent agrees that the Board may adopt this Consent Agreement or  
8 any part of it, pursuant to A.R.S. § 32-1451(I)(3). Respondent understands that the Board  
9 may consider this Consent Agreement or any part of it in any future disciplinary action  
10 against him.  
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12 4. Respondent understands that this Consent Agreement does not constitute a  
13 dismissal or resolution of other matters currently pending before the Board, if any, and  
14 does not constitute any waiver, express or implied, of the Board's statutory authority or  
15 jurisdiction regarding any other pending or future investigation, action or proceeding.  
16 Respondent also understands that acceptance of this Consent Agreement does not  
17 preclude any other agency, subdivision or officer of this state from instituting other civil  
18 or criminal proceedings with respect to the conduct that is the subject of this Consent  
19 Agreement.  
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21 5. Respondent acknowledges and agrees that, upon signing this Consent  
22 Agreement and returning this document to the Board's Executive Director, Respondent  
23 may not revoke his acceptance of the Consent Agreement or make any modifications to  
24 the document, regardless of whether the Consent Agreement has been signed and issued  
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1 by the Executive Director. Any modification to this original document is ineffective and  
2 void unless mutually approved by the parties in writing.

3 6. Respondent understands that the foregoing Consent Agreement shall not  
4 become effective unless the Board adopts it and the Executive Director signs it.

5 7. Respondent understands and agrees that if the Board does not adopt this  
6 Consent Agreement, he will not assert as a defense at any later formal hearing that the  
7 Board's consideration of it constitutes bias, prejudice, prejudgment or other similar  
8 defense.  
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10 8. Respondent understands that this Consent Agreement is a public record that  
11 may be publicly disseminated as a formal action of the Board, and that the Board shall  
12 report it, as required by law, to the National Practitioner Data Bank and the Healthcare  
13 Integrity and Protection Data Bank.  
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17 ACCEPTED BY:

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20 DATED: 11/21/05

  
Marc A. Bauder, M.D.

21  
22 REVIEWED AND APPROVED AS TO FORM  
23 BY:

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26 Counsel for Respondent

### FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.
2. Respondent holds License No. 15235 for the practice of allopathic medicine in the State of Arizona.
3. On June 17, 2003, Respondent entered into a consent agreement with the Board that reactivated his medical license and placed it on 2 years probation with various terms and conditions. The agreement required, among other provisions, that 1.) Respondent have a female chaperone present during all physical examinations he performed requiring female patients to disrobe; 2.) he practice in a group setting; and 3.) he participate in the Board's Monitored Aftercare Program under such requirements as his required submission to random, witnessed urine drug screening.
4. Respondent did not provide required urine drug screens on October 13, 2003, May 15, 2004 and June 18, 2004, as required by his June 17, 2003 Consent Agreement with the Board. In his explanation regarding these incidents, Respondent stated to the Board that he "forgot to call in for the color of the day," on October 13, 2003; that he "was immediately deluged with critical and unstable patients," and that he could not give a sample until after the collection center closed on May 15, 2004; and that he "became suddenly ill with a severe dysentery-like gastroenteritis on June 17, 2004, requiring him to cancel a trip to Santa Fe, NM, that he failed to inform the Board of prior to his departure.

1 5. On or about March 8, 2005, the Board received an anonymous complaint alleging  
2 that since January 2005, Respondent has been operating a solo practice in violation of his  
3 June 17, 2003 consent agreement. His agreement with the Board required him to practice  
4 in a group setting, defining it as "a practice setting that provides Respondent the support  
5 of fellow physicians and other medical practitioners." Respondent had been practicing  
6 with Jeffery Moffatt, M.D. after signing the June 17, 2003 Consent Agreement.

8 6. During the Board's investigation into this complaint, Respondent denied  
9 practicing on his own, in violation of his Consent Agreement. On May 5, 2005,  
10 Respondent faxed a letter he drafted to the Board in which he alleged that he was  
11 practicing in a group with two other doctors, Thomas Bennett, D.O., and Robert Casey,  
12 D.O. Board staff interviewed Jeffery Moffatt, M.D., Thomas Bennett, D.O., Robert  
13 Casey, D.O., Richard B. Todhunter, M.D., and other support staff from their respective  
14 practices to determine whether Respondent was practicing with any of them as a group.  
15 All the physicians and support staff denied working in a group practice setting with  
16 Respondent. Dr. Robert Casey and Dr. Thomas Bennett subsequently clarified to the  
17 Board that they were practicing with Respondent.

20 7. Respondent admits that his conduct constitutes unprofessional conduct and  
21 violates the Medical Practice Act.

#### 22 CONCLUSIONS OF LAW

- 23 1. The Board possesses jurisdiction over the subject matter and over Respondent.  
24 2. The conduct and circumstances described above in paragraphs 3 through 7  
25 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(r), "violating a  
26

1 *formal order, probation, consent agreement or stipulation issued or entered into by the*  
2 *board or its executive director under this chapter."*

3 3. The conduct and circumstances described above in paragraphs 3 through 7  
4 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(nn), "*refusing to*  
5 *submit to a body fluid examination or any other examination known to detect the*  
6 *presence of alcohol or other drugs as required by the board pursuant to section 32-1452*  
7 *or pursuant to a board investigation into a doctor of medicine's alleged substance*  
8 *abuse."*

10 **CONSENT ORDER**

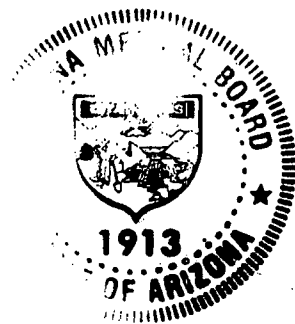
11 **IT IS THEREFORE ORDERED** that:

12 That a *Decree of Censure* be issued to Respondent, Marc Bauder, M.D., holder of  
13 License No. 15235, for failing to submit to three (3) required urine drug screens,  
14 and for failing to practice in a group practice pursuant to the consent agreement he  
15 signed with the Board on June 17, 2003.

16  
17 **DATED AND EFFECTIVE** this 9<sup>th</sup> day of February, 2008.

18  
19 ARIZONA MEDICAL BOARD

20 [SEAL]



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23 Timothy Miller, J.D.  
24 Executive Director  
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